

AMENDED IN SENATE JULY 13, 2011

AMENDED IN SENATE JUNE 20, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 853

Introduced by Assembly Member Blumenfield
(Coauthors: Assembly Members Beall, Cook, and Garrick)

February 17, 2011

An act to add and repeal Section 46300.8 of the Education Code, relating to online education.

LEGISLATIVE COUNSEL'S DIGEST

AB 853, as amended, Blumenfield. Online education: school attendance.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on, among other factors, the average daily attendance of pupils at the schools operated by those agencies. Numerous statutes and regulations govern the calculation and reporting of average daily attendance.

This bill, commencing with the 2013–14 fiscal year, would provide that school districts, county offices of education, and charter schools that offer online education courses may claim attendance toward average daily attendance on the basis of a pupil's attendance in an online course or courses that satisfy prescribed criteria.

The bill would require the Superintendent of Public Instruction, in consultation with the Controller and Director of Finance, on or before December 31, 2012, to make revisions to any attendance accounting manual or guidance provided to school districts, county offices of

education, or charter schools that are necessary to conform to these provisions, or to clarify these provisions with respect to attendance accounting procedures for asynchronous online courses, as defined. The bill additionally would require the Superintendent, in consultation with the Director of Finance, to adopt rules and regulations for the purposes of clarifying or expanding the procedures required for verifying the identification of pupils participating in asynchronous online courses and including pupil attendance in asynchronous online ~~education~~ courses in the calculation of average daily attendance.

The bill would make all of these provisions inoperative on July 1, 2017, and repeal them on January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 46300.8 is added to the Education Code,
2 to read:
3 46300.8. (a) Commencing with the 2013–14 fiscal year, a
4 school district, county office of education, or charter school may
5 claim attendance toward average daily attendance, for the purposes
6 of calculating average daily attendance pursuant to Section 46300,
7 on the basis of a pupil’s attendance in an online course or courses
8 if all of the following apply:
9 (1) The pupil is enrolled in grade 9, 10, 11, or 12.
10 (2) *The pupil is a California resident.*
11 ~~(2)~~
12 (3) The pupil is enrolled in classes that include courses in a
13 classroom-based setting, courses that are offered through an online
14 program, or both.
15 ~~(3)~~
16 (4) The pupil meets minimum instructional time requirements
17 pursuant to:
18 (A) Section 46141 and Section 46201, 46201.5, or 46202, as
19 applicable, for pupils enrolled in a noncharter school in a school
20 district or county office of education.
21 (B) Section 46170, for pupils enrolled in a continuation school.
22 (C) Section 46180, for pupils enrolled in an opportunity school.
23 (D) Subdivision (e) of Section 47612.5, for pupils enrolled in
24 a charter school.

1 ~~(4)~~

2 (5) Each online course in which the pupil is enrolled is a
3 high-quality online course.

4 (b) For the purposes of this section, a “high-quality online
5 course” is defined as an online course that meets all of the
6 following requirements:

7 (1) The online course is approved by the governing board of
8 the school district or county office of education, or by the
9 governing body of the charter school.

10 (2) The online course is certified to meet these requirements,
11 through board resolution, by the governing board of the school
12 district or county office of education, or by the governing body of
13 the charter school.

14 (3) The online course is certified by the governing board of the
15 school district or county office of education, or by the governing
16 body of the charter school, as being as rigorous as a
17 classroom-based course and meeting or exceeding all relevant state
18 content standards.

19 (4) Either of the following:

20 (A) The teacher is online at the same time as each pupil, is
21 accessible to each pupil attending the synchronous online course
22 to respond to pupil queries, assign tasks, and dispense information,
23 and is able to make a visual connection with each pupil for the
24 purposes of verifying attendance or providing immediate
25 supervision of the pupil.

26 (B) The teacher may be online at different times than each pupil,
27 is accessible to each pupil attending the asynchronous online course
28 to respond to pupil queries, assign tasks, and dispense information,
29 and, for the purposes of verifying attendance, is able to employ at
30 least one of the following:

31 (i) Periodic proctored examinations.

32 (ii) Direct teacher-pupil meetings no less than twice per calendar
33 month.

34 (iii) A visual connection, including, but not limited to, Internet
35 Webcam.

36 (5) (A) The ratio of pupils enrolled in that course to full-time
37 equivalent certificated teachers teaching the online course is less
38 than or equal to the ratio of pupils to teachers in traditional
39 classroom study of the same subject matter in the school, school
40 district, or the unified school district with the largest average daily

1 attendance of pupils in that county for the prior school year, as
2 reported on the Internet Web site of the department.

3 (B) If the online course is new or deemed by the governing
4 board of the school district or county office of education, or by
5 the governing body of the charter school, to be unique to the online
6 setting, the ratio of pupils enrolled in that course to full-time
7 equivalent teachers teaching the online course shall not exceed 30
8 to 1.

9 (6) When a traditional classroom-based course of the same
10 course title exists within the school district, county office of
11 education, or charter school, the subject matter content of the online
12 course is the same as for the traditional classroom-based course.

13 (7) The teacher of the online course holds the appropriate subject
14 matter credential and meets the requirements for a highly qualified
15 teacher pursuant to the federal No Child Left Behind Act of 2001
16 (20 U.S.C. Sec. 6301 et seq.).

17 (8) Statewide testing results for online pupils are reported and
18 assigned to the school in which the pupil is enrolled for regular
19 classroom courses, and to any school district or county *office of*
20 *education* within which that school's testing results are aggregated.

21 (9) The online course is offered by a high school, continuation
22 school, county office of education, or charter school offering
23 instruction in any of grades 9 to 12, inclusive.

24 (10) No pupil is assigned to the online course unless the pupil
25 voluntarily elects to participate in the online course and the parent
26 or guardian of the pupil provides written consent before the pupil
27 participates in the online course.

28 (11) No pupil voluntarily electing to participate in the online
29 course is denied access because the pupil lacks the computer
30 hardware or software necessary to participate in the online course.

31 (12) No pupil is charged for his or her participation in the online
32 course.

33 (13) Pupils enrolled in the online course take examinations by
34 proctor, or other reliable methods are used to ensure test integrity,
35 and there is a clear record of pupil work, using the same method
36 of documentation and assessment as used in a classroom-based
37 course.

38 (14) Contemporaneous records of the time that a pupil spends
39 online in the course and in related activities, and of the time the

1 teacher is online with pupils, are maintained by the school district,
2 county office of education, or charter school.

3 (c) Nothing in this section shall be interpreted to mean that a
4 charter school provides classroom-based or nonclassroom-based
5 instruction for the purposes of the state board determination made
6 pursuant to Section 47612.5.

7 (d) Attendance accounted for pursuant to subdivision (a) and
8 compliance with the requirements of subdivision (b) are subject
9 to the audit conducted pursuant to Section 41020.

10 (e) A pupil shall not be credited with more than five days of
11 course attendance per calendar week or more than the total number
12 of calendar days that regular classes are maintained by the school
13 district, county office of education, or charter school during the
14 fiscal year.

15 (f) *To remain eligible for claiming average daily attendance*
16 *and generating apportionments, a pupil over 19 years of age*
17 *enrolled in an online course or courses shall be continuously*
18 *enrolled in public school and make satisfactory progress toward*
19 *award of a high school diploma. The Superintendent shall, on or*
20 *before December 31, 2012, adopt regulations defining “satisfactory*
21 *progress.”*

22 ~~(f)~~
23 (g) The Superintendent, in consultation with the Controller and
24 the Director of Finance, on or before December 31, 2012, shall do
25 all of the following:

26 (1) Make revisions to any attendance accounting manual or
27 guidance provided to a school district, county office of education,
28 or charter school that are necessary to conform to this section.

29 (2) Make revisions to any attendance accounting manual or
30 guidance provided to local educational agencies that are necessary
31 to clarify attendance accounting procedures for asynchronous
32 online courses.

33 (3) Make recommendations to the appropriate policy and fiscal
34 committees in both houses of the Legislature and to the Governor
35 regarding statutory changes that would be necessary to allow pupil
36 attendance in asynchronous online courses to be included in the
37 calculation of average daily attendance pursuant to Section 46300.

38 ~~(g)~~
39 (h) Pupil attendance in asynchronous online courses shall not
40 be included in the calculation of average daily attendance pursuant

1 to Section 46300 until the Superintendent has adopted rules and
2 regulations pursuant to subdivision ~~(k)~~ (l).

3 ~~(h) For the~~

4 (i) For purposes of calculating average daily attendance pursuant
5 to Section 46300 and meeting the minimum instructional time
6 requirements specified in paragraph ~~(3)~~ (4) of subdivision (a):

7 (1) A pupil enrolled in a noncharter school and engaged in
8 educational activities in an online course meeting the requirements
9 of subdivisions (a) and (b) shall be deemed to be under the
10 immediate supervision and control of an employee of the *school*
11 district or county office of *education* who possesses a valid
12 certification document, registered as required by law.

13 (2) A pupil enrolled in a charter school and engaged in
14 educational activities in an online course meeting the requirements
15 of subdivisions (a) and (b) shall be deemed to be attending at the
16 schoolsite of the charter school.

17 ~~(i) For the~~

18 (j) For purposes of calculating average daily attendance pursuant
19 to Section 46300, a school district, county office of education, or
20 charter school claiming pupil attendance in an online course
21 meeting the requirements of subdivision (b) shall not be required
22 to meet the requirements of Article 5.5 (commencing with Section
23 51745) of Chapter 5 of Part 28.

24 ~~(j) For the~~

25 (k) For purposes of this section, the following definitions apply:

26 (1) “Asynchronous online course” means a course where the
27 teacher and pupil may be online at different times and are unable
28 to interact simultaneously.

29 (2) “Synchronous online course” means a course where the
30 teacher and pupil are online at the same time and able to interact
31 at that time.

32 ~~(k)~~

33 (l) The Superintendent, in consultation with the Department of
34 Finance, shall adopt rules and regulations, pursuant to the
35 rulemaking provisions of the Administrative Procedure Act
36 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
37 Division 3 of Title 2 of the Government Code), for both of the
38 following purposes:

39 (1) Clarifying or expanding the procedures required for verifying
40 the identification of pupils participating in asynchronous online

1 courses meeting all of the requirements of subdivisions (a) and
2 (b).

3 (2) Including pupil attendance in asynchronous online courses
4 in the calculation of average daily attendance pursuant to Section
5 46300. The Superintendent shall ensure that the rules and
6 regulations adopted for this purpose are consistent with the
7 revisions and recommendations required pursuant to subdivision
8 ~~(f)~~ (g).

9 ~~(h)~~

10 (m) No provision of this section shall be waived unless the
11 waiver is specifically authorized in statute.

12 ~~(m)~~

13 (n) This section shall become inoperative on July 1, 2017, and,
14 as of January 1, 2018, is repealed, unless a later enacted statute,
15 that becomes operative on or before January 1, 2018, deletes or
16 extends the dates on which it becomes inoperative and is repealed.